

IN THE SENATE

SENATE BILL NO. 1145

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS;  
AMENDING SECTION 18-3302H, IDAHO CODE, TO PROVIDE THAT CERTAIN  
INFORMATION IS CONFIDENTIAL AND EXEMPT FROM DISCLOSURE; AND  
AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT CERTAIN  
RECORDS ARE EXEMPT FROM DISCLOSURE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-3302H, Idaho Code, be, and the same is hereby amended  
to read as follows:

18-3302H. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED  
LAW ENFORCEMENT OFFICERS. (1) A county sheriff shall issue a license to carry a  
concealed firearm to a qualified retired law enforcement officer provided that the provisions of  
this section are met.

(2) As used in this section:

(a) "Firearm" means a handgun and does not include:

- (i) Any machine gun, as defined in 26 U.S.C. section 5845(b);
- (ii) Any firearm silencer, as defined in 18 U.S.C. section 921; or
- (iii) Any destructive device, as defined in 18 U.S.C. section 921.

(b) "Qualified retired law enforcement officer" means an individual who:

- (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
- (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of fifteen (15) years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
- (v) During the most recent twelve (12) month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;
- (vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;

- (vii) Is not prohibited by federal law from receiving a firearm;
- (viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;
- (ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);
- (x) Pays the fees charged by the sheriff pursuant to this section; and
- (xi) Completes the original application or renewal application as provided by this section.

(c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.

(d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following methods, provided the sheriff may require an applicant to complete more than one (1) firearms safety or training course:

- (i) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
- (ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;
- (iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;
- (iv) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;
- (v) Presentation of evidence of equivalent experience with a firearm through participation in organized shooting competitions or military service;
- (vi) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or
- (vii) Any other firearms safety training that the sheriff may deem appropriate.

(3) The original and renewal license applications under this section shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, identification of the law enforcement agency from which the applicant retired, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(4) The fee for original issuance of a license under this section shall be twenty dollars (\$20.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover

1 the cost of processing and the cost of materials for the license, which shall also be paid to the  
2 sheriff.

3 (5) An original or renewed license issued pursuant to this section shall be in a form  
4 substantially similar to that of the Idaho driver's license and shall be valid for a period of  
5 one (1) year. The license shall bear the signature, name, address, date of birth, picture of the  
6 licensee, expiration date, and the driver's license number or state identification card number of  
7 the licensee if used for identification in applying for the license, and shall state that the licensee  
8 is a qualified retired law enforcement officer. Upon issuing a license under the provisions of  
9 this section, the sheriff shall notify the Idaho state police on a form or in a manner prescribed  
10 by the director of the Idaho state police.

11 (6) A qualified retired law enforcement licensee under this section may renew his license  
12 if he applies for renewal at any time before or within ninety (90) days after the expiration date  
13 of the license. The sheriff shall require the licensee applying for renewal to complete a renewal  
14 application pursuant to subsection (3) of this section and an affidavit pursuant to subsection (2)  
15 of this section. A renewed license shall take effect upon the expiration date of the prior license.

16 (7) The fee for renewal of the license, which must be paid on a yearly basis, shall be  
17 twelve dollars (\$12.00), paid to the sheriff. The sheriff may also collect any additional fees  
18 necessary to cover the processing costs and the cost of materials for the license, which shall  
19 also be paid to the sheriff. A licensee renewing after the expiration date of the license shall  
20 pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee. The renewal  
21 penalty fee, if any, shall be paid to the sheriff.

22 (8) A current and valid photographic identification issued by the agency from which the  
23 individual retired from service as a law enforcement officer, together with a license issued by  
24 the sheriff pursuant to this section, shall serve as a license to carry a firearm for a qualified  
25 retired law enforcement officer under 18 U.S.C. section 926C.

26 (9) The sheriff of the county where the license was issued or the sheriff of the county  
27 where the person resides shall have the power to revoke a license issued under this section  
28 pursuant to the provisions of section 18-3302(15), Idaho Code.

29 (10) A county sheriff, deputy sheriff, or county employee who issues a license to carry a  
30 concealed weapon pursuant to this section shall not incur any civil or criminal liability as the  
31 result of the performance of his duties under this section.

32 (11) A city, county or other political subdivision of this state shall not modify the  
33 requirements of this section, nor shall a political subdivision ask the applicant to voluntarily  
34 submit any information not required by this section.

35 (12) A civil action may be brought to enjoin a wrongful refusal to issue a license or a  
36 wrongful modification of the requirements of this section. The civil action shall be brought in  
37 the county in which the application was made.

38 (13) In lieu of or in addition to qualification to carry a concealed firearm under this  
39 section, a retired law enforcement officer may apply for a license to carry concealed weapons  
40 under section 18-3302, Idaho Code.

41 (14) Information relating to an applicant or licensee received or maintained pursuant to  
42 this section by the sheriff or Idaho state police is confidential and exempt from disclosure under  
43 section 9-338, Idaho Code.

44 SECTION 2. That Section 9-340B, Idaho Code, be, and the same is hereby amended to  
45 read as follows:

1        9-340B. RECORDS EXEMPT FROM DISCLOSURE – LAW ENFORCEMENT  
 2 RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND  
 3 EMERGENCY RESPONSE PLANS, WORKER’S COMPENSATION. The following records  
 4 are exempt from disclosure:

5        (1) Investigatory records of a law enforcement agency, as defined in section 9-337(7),  
 6 Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

7        (2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho  
 8 Code, except that facts contained in such records shall be furnished upon request in a manner  
 9 determined by the court to persons and governmental and private agencies and institutions  
 10 conducting pertinent research studies or having a legitimate interest in the protection, welfare  
 11 and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is  
 12 petitioned or charged with an offense which would be a criminal offense if committed by an  
 13 adult, the name, offense of which the juvenile was petitioned or charged and disposition of the  
 14 court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally,  
 15 facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code,  
 16 shall be furnished upon request to any school district where the juvenile is enrolled or is  
 17 seeking enrollment.

18        (3) Records of the custody review board of the Idaho department of juvenile corrections,  
 19 including records containing the names, addresses and written statements of victims and family  
 20 members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A,  
 21 Idaho Code.

22        (4) (a) The following records of the department of correction:

23            (i) Records of which the public interest in confidentiality, public safety, security  
 24 and habilitation clearly outweighs the public interest in disclosure as identified  
 25 pursuant to the authority of the Idaho board of correction under section 20-212,  
 26 Idaho Code;

27            (ii) Records that contain any identifying information, or any information that  
 28 would lead to the identification of any victims or witnesses;

29            (iii) Records that reflect future transportation or movement of a prisoner;

30            (iv) Records gathered during the course of the presentence investigation;

31            (v) Records of a prisoner, as defined in section 9-337(10), Idaho Code, or  
 32 probationer shall not be disclosed to any other prisoner or probationer.

33        (b) Records of buildings, facilities, infrastructures and systems held by or in the custody  
 34 of any public agency only when the disclosure of such information would jeopardize  
 35 the safety of persons or the public safety. Such records may include emergency  
 36 evacuation, escape or other emergency response plans, vulnerability assessments,  
 37 operation and security manuals, plans, blueprints or security codes. For purposes of  
 38 this section "system" shall mean electrical, heating, ventilation, air conditioning and  
 39 telecommunication systems.

40        (c) Records of the commission of pardons and parole shall be exempt from public  
 41 disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code.  
 42 Records exempt from disclosure shall also include those containing the names, addresses  
 43 and written statements of victims.

44        (5) Voting records of the sexual offender classification board. In accordance with section  
 45 18-8315, Idaho Code, the written record of the vote to classify an offender as a violent sexual  
 46 predator by each board member in each case reviewed by that board member shall be exempt

1 from disclosure to the public and shall be made available upon request only to the governor,  
2 the chairman of the senate judiciary and rules committee, and the chairman of the house of  
3 representatives judiciary, rules and administration committee, for all lawful purposes.

4 (6) Records of the sheriff or Idaho state police received or maintained pursuant to  
5 sections 18-3302 and 18-3302H, Idaho Code, relating to an applicant or licensee.

6 (7) Records of investigations prepared by the department of health and welfare pursuant  
7 to its statutory responsibilities dealing with the protection of children, the rehabilitation of  
8 youth, adoptions and the commitment of mentally ill persons.

9 (8) Records including, but not limited to, investigative reports, resulting from  
10 investigations conducted into complaints of discrimination made to the Idaho human rights  
11 commission unless the public interest in allowing inspection and copying of such records  
12 outweighs the legitimate public or private interest in maintaining confidentiality of such  
13 records. A person may inspect and copy documents from an investigative file to which he  
14 or she is a named party if such documents are not otherwise prohibited from disclosure by  
15 federal law or regulation or state law. The confidentiality of this subsection will no longer  
16 apply to any record used in any judicial proceeding brought by a named party to the complaint  
17 or investigation, or by the Idaho human rights commission, relating to the complaint of  
18 discrimination.

19 (9) Records containing information obtained by the manager of the Idaho state insurance  
20 fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees  
21 contained in underwriting and claims for benefits files.

22 (10) The worker's compensation records of the Idaho industrial commission provided that  
23 the industrial commission shall make such records available:

24 (a) To the parties in any worker's compensation claim and to the industrial special  
25 indemnity fund of the state of Idaho; or

26 (b) To employers and prospective employers subject to the provisions of the Americans  
27 with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that  
28 the information is being requested with respect to a worker to whom the employer has  
29 extended an offer of employment and will be used in accordance with the provisions of  
30 the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

31 (c) To employers and prospective employers not subject to the provisions of the  
32 Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided  
33 the employer presents a written authorization from the person to whom the records  
34 pertain; or

35 (d) To others who demonstrate that the public interest in allowing inspection and copying  
36 of such records outweighs the public or private interest in maintaining the confidentiality  
37 of such records, as determined by a civil court of competent jurisdiction; or

38 (e) Although a claimant's records maintained by the industrial commission, including  
39 medical and rehabilitation records, are otherwise exempt from public disclosure, the  
40 quoting or discussing of medical or rehabilitation records contained in the industrial  
41 commission's records during a hearing for compensation or in a written decision issued  
42 by the industrial commission shall be permitted; provided further, the true identification of  
43 the parties shall not be exempt from public disclosure in any written decision issued and  
44 released to the public by the industrial commission.

45 (11) Records of investigations compiled by the commission on aging involving vulnerable  
46 adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

1           (12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code,  
2 and compiled by the Idaho state police. Such records shall be released only in accordance with  
3 chapter 30, title 67, Idaho Code.

4           (13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding  
5 termination of an appointment, employment, contract or other insurance business relationship  
6 between an insurer and a producer.

7           (14) Records of a prisoner or former prisoner in the custody of any state or local  
8 correctional facility, when the request is made by another prisoner in the custody of any state or  
9 local correctional facility.

10          (15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial  
11 commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

12          (16) Records or information identifying a complainant maintained by the department  
13 of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family  
14 homes, unless the complainant consents in writing to the disclosure or the disclosure of the  
15 complainant's identity is required in any administrative or judicial proceeding.